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December 15, 2023

**VIA ECF**

The Honorable Jesse M. Furman  
United States District Judge  
Southern District of New York  
40 Centre Street, Room 2202  
New York, New York 10007

Re: *Accent Delight International Ltd. v. Sotheby's et al.*, 18-cv-9011

Dear Judge Furman:

We write respectfully on behalf of Defendants Sotheby's and Sotheby's, Inc. pursuant to the Court's November 29, 2023 Order allocating 30 hours for Accent Delight's case and 40 hours for Defendants' case, and directing that any objections to those allocations be filed by December 15, 2023. ECF No. 580, at 2. We respectfully request that Defendants be allocated 55 hours for their opening statement and witness examinations.

An allocation of 55 hours for Defendants is necessary to provide us with a fair opportunity to address all of Plaintiff's allegations. Plaintiff has alleged a company-wide conspiracy that spans virtually every aspect of Defendants' business, including its corporate oversight and compliance programs, financial incentives, preparations of artwork descriptions and estimates, brokerage of private sales, orchestration of public auctions, pre-sale and post-sale logistics, coordination of viewings, client development practices, and preparation of insurance valuations. Plaintiff has marked approximately 250 trial exhibits that were produced by Defendants, relying on scores of one-off communications and events that touch upon all of the above-referenced categories and implicate employees across a wide range of departments. To respond adequately to Plaintiff's scattershot allegations, Defendants will need to give context to the facts surrounding each communication or event by proffering witnesses who can speak to each specific issue raised. A fair opportunity to rebut evidence plucked from documents out of context will take time. Further, any allocation has to fairly account for the amount of time reasonably necessary to examine and cross-examine the three expert witnesses who will appear at trial.



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We have calculated the total number of necessary hours of trial testimony based on our best, most conservative estimates. There are 30 witnesses in total (both live and via deposition). There are eight main witnesses who will be called jointly. Counsel for Plaintiff has represented that Plaintiff will take at least two days for its examination of Samuel Valette, and Defendants will likely need three to four days to rebut Plaintiff's examination. For six of the main remaining joint witnesses (Rybolovlev, Sazonov, Bogdanov, Ruprecht, Vinciguerra, and Bell), assuming an average of three hours for each, the total allocation for these witnesses is 18 hours; Sanford Heller's testimony could take two hours. There are seven witnesses designated by Defendants (Haiderer, Newman, Taylor, Billault, Shaw, Edelson, and Tabladini) who will testify with respect to myriad one-off issues raised by Plaintiff. We assume an average of 1.5 hours of testimony for these witnesses, totaling 10.5 hours. Given Jane Levine's involvement with Defendants' policies and her communications with Bouvier and Bersheda, Defendants' direct examination of her could take at least four hours. We assume one hour to cross-examine Ekaterina Rybolovleva, who is not being called jointly. For the expert witnesses the parties have called, we assume an average of three hours per witness, for a total of nine hours. Further, there are four witnesses testifying by video or through the reading of deposition excerpts. We assume a total of 1.5 hours for these witnesses.<sup>1</sup> The combined hours of testimony, under this conservative estimate, is 61 hours.

Defendants are mindful of the importance of streamlining the trial and conducting it as efficiently as possible, and we are also mindful of Your Honor's comment at the conference that limiting the allotted hours of testimony is in the parties' interest. Given, however, the sheer number of defense witnesses made necessary by Plaintiff's chosen strategy in litigating and taking this case to trial, Defendants respectfully submit that our proposed allocation of 55 hours for Defendants (inclusive of opening statement) is reasonable and fair and we respectfully request that the Court grant Defendants the requested allocation.

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<sup>1</sup> We do not include a time estimate for Warren Adelson, Alexander Parish, or Robert Simon. Although they are identified as joint witnesses in the Joint Pretrial Order, Defendants have only called them to reserve their right to go beyond the scope of Plaintiff's examinations and do not plan to call them if Plaintiff does not do so. The length of their examinations is difficult to estimate given the indeterminate scope of Plaintiff's examinations. Finally, we also do not include a time estimate for the document custodian for Wildenstein & Co. or for Nicholas Acquavella, whom Plaintiff has called.



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We thank the Court for its consideration of this letter.

Respectfully,

/s/ Marcus A. Asner  
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Cc: All counsel of record (via ECF)